

MORGANTOWN PLANNING COMMISSION

MINUTES

6:30 PM

October 8, 2015

Council Chambers

COMMISSIONERS PRESENT: Peter DeMasters, Sam Loretta, Bill Kawecki, Tim Stranko, William Blosser, Ken Martis, and Michael Shuman

COMMISSIONERS ABSENT: Carol Pyles, Bill Petros

STAFF PRESENT: Chet Parsons, AICP and Stacy Hollar

- I. CALL TO ORDER/ROLL CALL:** DeMasters called the meeting to order at 6:30 PM and read the standard explanation of the how the Planning Commission conducts business and rules for public comments.
- II. GENERAL PUBLIC COMMENTS:** None
- III. MATTERS OF BUSINESS:**
 - A.** Approval of the September 10, 2015 meeting minutes: Stranko moved to approve as presented; seconded by Loretta. Motion carried unanimously. DeMasters and Shuman abstained due to their absences.
- IV. UNFINISHED BUSINESS:** None.
- V. NEW BUSINESS:**

Stranko recused himself from the first three items on the agenda.

- A. MNS15-18 / Craft Built Homes, LLC / Munsey Street:** Request by Kurtis Clinton, on behalf of Craft Built Homes, LLC, for minor subdivision approval of property located on Munsey Street; Tax Map 6, Parcel 28; R-1, Single-Family Residential District.

Parsons presented the Staff Report. Parsons noted the applicant requested Staff to represent the petition.

There being no comments or questions by the Commission, DeMasters asked if anyone was present to speak in favor of or in opposition to the petition. There being none, DeMasters declared the public hearing closed and asked for Staff recommendations.

Parsons read the Staff recommendations.

Martis moved to approve Case No. MNS15-18 as requested with Staff recommended conditions; seconded by Loretta. Motion carried unanimously.

NOTE: The following conditions were included in the motion:

1. *That the petitioner submit three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature; and,*
2. *That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the conditions set forth above.*

B. MNS15-19 / Suburban Lanes, LLC / 3166 Collins Ferry Road: Request by Lisa Mardis, on behalf of Suburban Lanes, LLC, for minor subdivision approval of property located at 3166 Collins Ferry Road; Tax Map55, Parcel 40; R-1, Single-Family Residential District.

Parsons presented the Staff Report.

DeMasters recognized Lisa Mardis of Project Management Services, 168 Fayette Street, who requested to combine cases MNS15-19 and RZ15-09 for discussion purposes with the understanding both cases would be voted on separately.

Parsons suggested to table Case No. MNS15-19 to allow discussion of Case No. RZ15-09 and MNS15-19 consecutively.

Martis moved to table Case No. MNS15-19; seconded by Blosser. Motion carried unanimously.

C. RZ15-09 / Suburban Lanes, LLC / 3166 Collins Ferry Road: Request by Lisa Mardis, on behalf of Suburban Lanes, LLC, for a Zoning Map Amendment to reclassify property from R-1, Single-Family Residential District to B-2, Service Business District; Tax Map 55, Parcel 40.

Parsons presented the Staff Report.

DeMasters recognized Lisa Mardis of Project Management Services, 168 Fayette Street, who stated the "The Wine Bar at Vintner Valley" has become a success and the need for more parking is necessary. The establishment currently offers valet parking, however additional parking is still needed. A minor subdivision would ensure no further development in the future and would become a nonconforming lot lacking road frontage.

Mardis explained that the proposed parking area access would not be using the private lane or taking a land locked parcel and giving road frontage. The lighting will be LED dark sky that projects downward and will not reflect of property.

DeMasters expressed concerns with future development if the parcel is rezoned to B-2. Mardis explained that the parcel would not be big enough for a tall building as there is not enough property and the roadway is not sufficient.

DeMasters noted that since the Wine Bar is B-2 then the parcel would become one larger B-2 parcel and changing the parcel to B-1 would lower the standard for potential buildings in the future.

Mardis noted the property owner is a long standing resident who cares about the community and does good work. DeMasters understood but restated his concerns with future development as a B-2 parcel.

Loretta asked if access will be granted from the private lane if the parcels are combined. Mardis stated no access will be granted and a 10 foot landscape barrier would be required at the rear of the property. Loretta asked if access would be permitted in the future should the parcel be sold to a new owner. Mardis explained that a curb cut would be required from the City in addition to other requirements.

DeMasters expressed that rezoning to a B-1 would be more appropriate. Mardis stated the applicant does not want B-1 zoning.

Mardis noted that she never considered the option of a B-1 zone as it wasn't discussed with the City Planner prior to receiving the Staff Report. Therefore there wasn't a lot of time to discuss the details for a B-1 District.

There being no further comments or questions by the Commission, DeMasters asked if anyone was present to speak in favor of the petition.

DeMasters recognized Jim Rockis of 219 Riverview Court who stated he owns an office building on Collins Ferry Road and feels the request would be appropriate provided both pieces of property are combined. Rockis encouraged the Commission to grant the request as the area is becoming more commercialized and there will be more pressure for surrounding parcels to rezone in the future.

DeMasters asked if anyone was present to speak in opposition of the petition.

DeMasters recognized Richard Hall of 3146 Collins Ferry Road which is located along the easement and adjacent to the property that had been previously discussed. Hall noted the easement is maintained by the surrounding property owners as the City does not maintain the road. The owner of the Wine Bar knew how much parking was available when he purchased the property. Hall expressed concerns with the lighting as he is 7 feet from the property line. If rezoning is approved then stipulations need to be included to protect the neighboring properties.

DeMasters recognized David Kelly of 100 Seventh Street who stated he owns two lots on Milford Street and expressed concerns with the future of the property if sold and the R-1 area needs to be protected. The change in zoning would cause the value of his property to decrease.

DeMasters recognized John Hammock who is the CEO of Key Logic Systems which is located next to the property in question. Hammock expressed concerns with the request to change the parcel to B-2 as it would change the character of the neighborhood. Half of the easement is owned and protected by Key Logic. At the most narrow point, the road is 10 feet wide and traffic would increase immensely should a parking lot be approved. There are trees that currently provide a view scape buffer from the existing house and expressed concerns that the trees would be eliminated with the proposed project. Hammock requested a deed restriction to restrict future access to the lane on parcel 40 should be placed as a condition should the map amendment be

approved. Hammock questioned the real future intent for the property since the property owner is against rezoning to a B-1 District.

Parsons noted that two letters were received by Staff in opposition to the request by John Hammock and Roberta Vance. Hard copies were provided to the Commission members.

There being no further public comments, DeMasters declared the public hearing closed and offered Mardis a chance for rebuttal.

Mardis stated the parcel is small and only allows for 20 parking spaces. The property owner is willing to do the deed restriction Mr. Hammock suggested. The Wine Bar is professional establishment and not a typical bar. A landscape buffer would be required so cars would not be close to the property line and the trees may not be permissible under the new landscape requirement as they are large pine trees. The property owner does not want the property to be a B-1 District, however if the Commission feels that is more appropriate then Mardis asked the Commission to forward a recommendation to City Council. Should the property owner not agree with the change he could withdraw his request at a later point prior to going to City Council.

DeMasters declared the public portion closed and asked for Staff recommendations.

Parsons presented Staff recommendations.

Martis expressed concerns with future development on the parcel and noted the R-1 District should be protected.

Loretta noted the property is located in a limited growth area according to the Comprehensive Plan and a parking lot would be inappropriate as the R-1 District should be protected.

DeMasters asked Martis and Loretta if they have the same concerns should the parcel be changed to a B-1 District. Martis stated he felt the same and does not want the parcel to change from an R-1 District. Loretta agreed.

DeMasters noted that an easement deed to the land is not a guarantee to transfer in the future should the property be sold.

Shuman noted that if the Commission approves the request then it opens the door for more requests down the road and the parcel needs to remain as R-1.

Martis moved to send a recommendation to City Council to deny the zoning map amendment petition Case No. RZ15-09; seconded by Shuman. Motion carried unanimously.

DeMasters asked Mardis if she would like to leave MNS15-19 on the table. Mardis requested to take MNS15-19 off the table because if the request gets denied she can reapply next month.

Martis moved to take MNS15-19 off the table; seconded by Shuman. Motion carried unanimously.

DeMasters recognized Lisa Mardis of Project Management Services who stated its common in Morgantown to have a property that is dissected into two different parcels. Lisa used her own residence as an example of a property that is dissected between R-1 and R-1A. The minor subdivision request can be withdrawn should City Council deny the map amendment request if

the subdivision is not recorded at the courthouse, in which they would not do until a decision is made by Council.

DeMasters noted that if approved then it would be creating a nonconforming lot. Mardis disagreed and stated the subdivision would be creating a large lot, however it is already nonconforming as it doesn't have road frontage.

Mardis noted that if a minor subdivision meets all requirements within the code then the Planning Commission can't deny the request and asked Parsons if that was correct. Parsons stated he didn't know if that was correct but referred to the Staff Report that reads the Planning Commission should exercise discretion and factual judgement when making the decision.

DeMasters noted that all past requests have been ministerial and he feels they can discuss the merits of the request before making a decision since there are two different zoning classifications involved.

There being no further comments or questions by the Commission, DeMasters asked if anyone was present to speak in favor or in opposition of the minor subdivision petition.

DeMasters recognized Dave Kelly of 100 Seventh Street who expressed it doesn't make sense to combine a B-2 with an R-1 and noted cars would be in disarray, maybe even in the grass, if a parking lot is allowed.

DeMasters recognized John Hammock of Key Logic Inc, who expressed that a minor subdivision would be nonsensical and the request to combine the parcels seems like a strategy to circumvent the process with other projects in mind.

DeMasters recognized Richard Hall who lives next to the property and stated he is not in favor of combining the two lots as the City does not maintain the easement and the responsibility has fallen on the surrounding property owners.

There being no further comments, DeMasters offered Mardis a chance for rebuttal.

DeMasters recognized Lisa Mardis of Project Management Services who stated she is offended of being accused of circumventing the process and minor subdivision was not their choice as the City Planner made them submit a minor subdivision application. The Wine Bar is simply a locally owned business that has become popular and needs additional parking. Mardis was unaware of the private lane prior to the Staff Report as the tax map shows little dash marks like a public right-of-way.

Loretta asked if the valet parking could handle 20 more spaces. Mardis confirmed and stated there are currently 28 spaces with two reserved for the residents upstairs and a couple for the Staff. The business owner has tried to negotiate with surrounding businesses for off-site parking but has been unsuccessful.

There being no further public comments, DeMasters declared the public portion closed and asked for Staff recommendations.

Parsons presented the Staff recommendations.

Martis moved to deny Case No. MNS15-19; seconded by Blosser. Motion carried unanimously.

Stranko reentered Council Chambers to participate in remaining petitions.

- D. TX15-04 / Companion Care Corporation / Permitted Land Uses:** Request by Jerome Munsey, on behalf of Companion Care Corporation, to amend Table 1331.05.01 "Permitted Land Uses" so that a "Two-Family Dwelling" uses are permitted either by-right or by conditional use approval in the B-1 District.

Parsons presented the Staff Report.

DeMasters recognized Jerome Munsey who owns property at 304 Willey Street which previously housed *Companion Care Corporation*. Munsey explained he is trying to market the property and turn the lower level into apartment units. The upstairs of the structure holds existing apartment units. The building would be more marketable as dwelling units as the property is surrounded by student housing. The current building is marketed as commercial property until they are allowed to advertise otherwise.

There being no comments or questions by the Commission, DeMasters asked if anyone was present to speak in favor or in opposition of the petition. There being none, DeMasters declared the public hearing closed and asked for Staff recommendations.

Parsons presented the Staff recommendations.

Martis asked if this is a specific case and parcel or if this petition involved the whole City. Kaweck noted this case includes the entire City. DeMasters explained why the entire City is included in the request and referred to the Staff Report to show where the B-1 Districts are located on the map.

DeMasters explained the difference between permitted by-right and permitted as a conditional use request.

Stranko noted that vacant buildings in small business districts are destructive to businesses next door and supports the Staff recommendation in the Staff Report. If a building can't be occupied then it should be used for something else such as apartment units.

Kaweck noted the idea of housing rather than commercial space would have a "wet blanket" effect on any surrounding commercial space.

Stranko noted the Board of Zoning Appeals would look at each individual application to determine the best uses of property prior to making a decision on granting a conditional use request.

Loretta asked if this would encourage business or discourage business. DeMasters expressed that one would get a higher rental from commercial use than from housing, however if the space can't be rented commercially then another option should be allowed through a conditional use request.

Stranko expressed that vacant storefronts repel new businesses coming into the area.

Shuman stated it would make sense for this specific property however it wouldn't be beneficial to other areas, such as the old Richwood Bar and Grill. Shuman expressed that once something

goes from a B-1 storefront to a two-bedroom unit, it is unlikely it would become a storefront again and noted this would be taking a small business opportunity out of the community.

Stanko expressed that to strand an owner with property they can't make productive is a bad move for the City and the citizens.

Stranko moved to forward a favorable recommendation to City Council for Case No. TX15-04 to amend Table 1331.05.01 "Permitted Land Uses" to permit "Two-Family Dwelling" uses as conditional uses within the B-1, Neighborhood Business District; seconded by Martis. Motion carried 4-3, with Loretta, Shuman and Kawecky voting nay.

- E. RZ15-10 / Admin / Annexation Petition by West Virginia University:**
Administratively requested Zoning Map Amendment to establish the zoning classification of B-5, Shopping Center District for territory included in a petition for annexation by West Virginia University; being Parcel 19 and part of Parcels 18.5 and 20 of Tax Map 4 in Morgan District as well as 2.12 acres, more or less, owned by the West Virginia Department of Transportation, Division of Highways not assigned a Tax Map and Parcel designation.

Parsons presented the Staff Report.

There being no comments or questions by the Commission, DeMasters asked if anyone was present to speak in favor or in opposition of the petition. There being none, DeMaster declared the public portion closed and asked for Staff recommendations.

Parsons presented the Staff recommendations.

Blosser asked if the area would become property of West Virginia University. Parsons stated it would not become owned by West Virginia University.

Loretta asked Kawecky to give an overview of City Council's discussion of the matter at hand. Kawecky explained where the commercial property is located and noted the developer requested the annexation which will now allow collection of additional B & O taxes for the City.

Martis asked why the developer wants the area to be a part of the City. Kawecky stated the developer wants the benefits of fire and police responders in addition to benefits in infrastructure.

Stranko moved to forward a favorable recommendation to amend the zoning map by classifying the property as a B-5, Shopping Center District contingent upon City Council's final annexation of same; seconded by Martis. Motion carried unanimously.

VI. OTHER BUSINESS:

A. Committee Reports

- Traffic Commission: No report.
- Green Team: No report.

- B.** Staff Comments: Parsons notified the Commissions of the Public Hearing for the 2013 Comprehensive Plan Amendment that is scheduled for Thursday, November 12, 2015 at 6:30 PM in City Council Chambers.

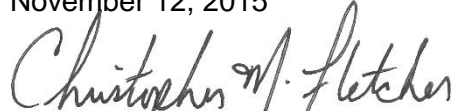
VII. FOR THE GOOD OF THE COMMISSION:

VIII. ADJOURNMENT: 8:23 PM

MINUTES APPROVED:

November 12, 2015

COMMISSION SECRETARY:


Christopher M. Fletcher, AICP